

August 9, 2012

Mr. Ford called the workshop meeting of the Union Township Planning Board/Board of Adjustment to order at 7:00 p.m.

Open Public Meetings Act Notice: I would like to have placed in the minutes that the Open Public Meeting Requirements of Law have been satisfied by our notices dated January 19, 2012, as published in the Hunterdon County Democrat and the Courier News. A copy of the notice has also been posted on the Township Website, the Bulletin Board in the Municipal Building and a copy has been filed with the Clerk.

Members Present: Mr. Hirt (7:05 p.m.), Mr. Walchuk, Mr. Nace, Mrs. Corcoran, Mr. Badenhausen, Mrs. Dziubek, Mr. Ford

Members Absent: Mr. Bischoff, Mr. Ryland, Mr. Kastrud, Mr. Kirkpatrick

Others Present: Atty. Mark Anderson, Robert Clerico, Atty. Sandy Galacio, Robert Maloney, Victor Ammons, Charlene Budinich, Atty. George Dilts, David Hay, Jane Manzione

Approval of Minutes: Mr. Nace made a motion to approve the minutes of the June 14, 2012 meeting, as amended. Mrs. Corcoran seconded the motion.

Vote: Ayes: Mr. Nace, Mrs. Corcoran, Mr. Badenhausen

Abstain: Mr. Walchuk, Mrs. Dziubek

Ikaria, Inc. Block 13, Lot 6, 53 Frontage Road, Perryville Corporate Park: Mr. Ford said the first issue was completeness. If deemed complete the Board would hear the matter. Atty. Sandy Galacio was present on behalf of applicant. Mr. Galacio said applicant had submitted required paperwork, including a request for certain waivers from the checklist. He said the Board Engineer, in a letter dated August 7, 2012, had no issues with the waiver requests. Atty. Galacio asked that the application be deemed complete. Mr. Ford asked if there were questions from the Board. There were none. He asked for a motion recommending that the application be deemed complete.

Mr. Nace made a motion to deem the application complete. Mrs. Dziubek seconded the motion.

Vote: Ayes: Mr. Nace, Mrs. Dziubek, Mr. Walchuk, Mrs. Corcoran, Mr. Badenhausen, Mr. Ford

Mr. Ford announced that the Public Hearing would begin. He also said the record should reflect that Mr. Hirt had arrived. Atty. Galacio said applicant was seeking approval to install a permanent emergency generator to serve as a source of power for their call center. The center needs to be available 24 hours a day. There is a temporary generator at the site. Mr. Galacio said he had two witnesses, Robert Maloney, Landscaping Engineer and Victor Ammons, Electrical Engineer. Mr. Maloney was sworn by Atty. Anderson. He stated his credentials. They were accepted by the Board.

Mr. Maloney presented an Aerial Image of the site. It was marked Exhibit A-1. He said the Exhibit shows what the property looks like; existing vegetation, the location of the existing building and

neighboring properties in relation to the property lines. The Building at the top is 53 Frontage Road in the southeast corner of the site. There is a loading dock, service bays and trash dumpster. The proposed generator is approximately 145 feet from the property line and 625 to 655 feet from neighboring properties. It will be located on an existing grass surface. One tree will be removed. The generator will be placed in that location. Approximately 290 square feet (s.f.) of impervious surface will be added. The pad is 15-1/2 feet long by 5-1/2 feet wide. The generator will be placed on that pad. The height of the generator is approximately 9 feet. It will be placed in an enclosure and will be surrounded by four eight-inch diameter concrete-filled steel bollards that will provide protection from vehicles hitting the generator. The proposed double-contained fuel tank will hold 500 gallons. The outside tank would contain any fuel caused by a rupture of the interior tank. There is a leak-detection system in the outside tank that would alert service personnel. There is landscaping in the loading-dock area and along the property line, as well as mature trees by the railroad.

Mr. Maloney displayed images of the proposed generator and loading dock. Atty. Galacio said the images were comparable to the existing-temporary generator at the site. Loading Dock Image 1 was marked Exhibit A-2. The view was taken near the entrance to the Loading Dock area. Loading Dock Image 2 was marked Exhibit A-3. That view was taken looking toward the western area of the site. Mr. Hirt spoke favorably about the proposal. Mr. Nace said when Ikaria appeared before the Board earlier this year (June 14, 2012 Workshop – Informal) they referred to installing a 350 gallon diesel fuel tank. Ikaria is proposing a 500 gallon tank. Mr. Maloney explained. He said the tank size was based on run time and that the larger tank would be required to insure coverage for 48 hours of continuous use. The generator size will not increase. The bottom base would be somewhat deeper.

The next Exhibit displayed was Site Layout, Grading, Landscaping & Details and Notes. The Exhibit was marked A-4. It shows existing and proposed improvements. Mr. Maloney said five four-foot high evergreen trees are proposed. Mr. Ford asked for questions from the Board. Mrs. Corcoran asked if the generator was in a sound intenerating enclosure. Mr. Maloney said the enclosure would drastically reduce the sound. He said sound criteria states that from 50 feet away the noise level would be 69.3 decibels. The proposed generator is 150 feet away from the property line and the code provides for 65 decibels. Mr. Maloney said the New Jersey Administrative Code states that emergency generators are exempt from meeting sound criteria. Ikaria is providing the enclosure to reduce noise that might impact other occupants on any neighboring properties.

In response to a question from Mrs. Corcoran as to whether the proposed generator would be less noisy than the existing temporary generator, Mr. Maloney said he did not know the answer. Atty. Galacio said that would be a question for the next witness. Mr. Walchuk asked for confirmation that the generator would be installed on the concrete pad. Mr. Maloney said it would be placed on the pad. He said the pad is oversized to allow for workers to do required maintenance. Mrs. Corcoran asked if the secondary containment would hold 500 gallons. Mr. Maloney said the secondary unit was designed to contain a leak. However, it would hold 500 gallons. Mr. Ford asked Mr. Clerico if he had questions.

Mr. Clerico said he had none. Mr. Ford asked if there were any questions from the Public concerning Mr. Maloney's testimony. There were none.

Atty. Galacio asked the next witness, Victor Ammons, to come forward. He was sworn by Atty. Anderson. Mr. Ford asked Mr. Ammons to give a brief summary of his background. Mr. Ammons said he is a Professional Electrical Engineer, licensed in New Jersey since 1978. He is also a licensed contractor in New Jersey, however, that license is in abeyance. Mr. Ford said he would be deemed a professional for the purpose of this presentation. Atty. Galacio asked Mr. Ammons to address the question about the permanent generator creating less noise than the temporary generator. Mr. Ammons said the temporary generator is in a trailer. The enclosure for the proposed generator should reduce the sound. Mr. Ammons provided additional information on the leak-containment unit. He said the double-walled tank is completely sealed. Actually, the two tanks are sealed together with a small space in between that would hold approximately five gallons. Mr. Ammons said any spill would be contained within the tanks. Mr. Ammons addressed a question raised at the Informal about using diesel fuel versus natural gas. He said the codes on emergency generators call for a four-hour onsite fuel source and natural gas does not meet that code requirement because there would not be storage on-site. Therefore, diesel is the preferred method of fueling the emergency generator. Mrs. Corcoran asked about the Code. Mr. Ammons said it was NFPA-110 Code for emergency generators. Mr. Ammons said diesel generators have a capacity for starting loads better than natural gas generators. A natural gas source would also be susceptible to interruption at the time of an emergency when a generator would be required. Mr. Ford asked about the use of propane gas. Mr. Ammons said propane has the same problem as natural gas in not being able to accept a heavy load. He said a generator that uses natural gas and propane was a possibility. However, it is considerably more expensive. Mr. Nace asked if the diesel generator would have temperature constraints. Mr. Ammons said the constraint is in the lubrication of the engine. A heater is installed for the lubrication oil to maintain a higher temperature so that the generator would start.

Mr. Ford asked Mr. Ammons if he had more information on sound levels produced at greater distances than the aforementioned fifty feet. Mr. Ammons said sound drops off considerably at each doubling of distance. At 100 feet it would be about 10 decibels below the fifty foot level. Mr. Ford said the 69 decibels at fifty feet might be 50 decibels at 100 feet. Mr. Ammons said that normal conversation is about 60 decibels. The noise level by the railroad would be minimal. Mr. Walchuk asked the power rating of the generator. The proposed generator is 175 kw. Mr. Clerico asked how often the generator would be exercised. Mr. Ammons said the plan is to exercise it monthly for one hour. If there is maintenance involved, it could be two hours. Electrical connections to the generator are underground. Mr. Walchuk asked the actual power rating of the generator itself. Mr. Ammons said it was somewhat more than the kw rating. Mr. Hirt indicated applicant's request was based upon a real need if there was a power outage. Mrs. Dziubek asked about exercise of the proposed generator versus the existing temporary generator. Mr. Ammons had stated the exercise routine for the proposed generator and believed that the temporary one would have also needed sometime of regular exercise.

Mrs. Dziubek also wanted to know if the decibels were calculated on the height of the generator. Mr. Ammons said that had no bearing on the decibels. Mr. Ammons referenced the size of the fuel tank. He said one of the factors in selecting the tank was that there is a one hour per month test. The generator uses 14-15 gallons for the one hour test and it is important to maintain the amount needed for emergencies plus that needed for the monthly testing. The larger tank would mean fewer deliveries. Mr. Ford said the 500 gallon tank, using 14/15 gallons per hour of operation, would provide 36 hours. If the tank was down to 100 gallons, there would be approximately 24 hours for the generator to operate. Mr. Ammons said that would be if the generator was operating at full load.

Mrs. Dziubek asked if the installation would have any impact on emergency vehicles having access to the site. Mr. Ammons said because of the location of the generator, there would be no impact on traffic flow. Mr. Ford asked for questions from Mr. Clerico. He had none.

Mr. Ford asked for the next witness to come forward. Charlene Budinich, Ikaria Facilities Manager, was sworn by Atty. Anderson. Atty. Galacio said there were three questions from the Board. How long has the temporary generator been at the location? Ms. Budinich said since June 2011 when Ikaria moved to the site. Has the generator been used in an emergency situation? Ms. Budinich said about six times over the past year; the longest time was in October 2011, when the building was without power for at least two days. The generator backed up the call center and the day center. Also asked was why 24-hour emergency backup? Ms. Budinich said Ikaria has a critical-care drug that must be available for hospitals at off hours. Ms. Budinich said the facility operates 24 hours a day. Atty. Galacio asked about the temporary generator, was it run once a month for maintenance purposes? Ms. Budinich said "Yes". The reason Ikaria is requesting approval for the permanent generator because it was part of their original plan. Ikaria had one at their previous location, also located in Union Township. Ikaria will own the permanent generator. Ms. Budinich had not done calculations as to cost of operating the permanent versus temporary generator. Mr. Ford asked for questions from Mr. Clerico and/or the Public. There were none.

Mr. Ford said the Board would be taking action. Atty. Galacio thanked the Board for their consideration. He said there are no variances; it is a site plan application. Applicant has met all existing regulations and Ordinance requirements. Mr. Galacio said this would be a great improvement over the existing temporary generator. Mr. Ford asked for comments from the Board. Mr. Hirt said he was in favor of granting approval. Mr. Clerico had asked for acknowledgment from the owner of the property that the installation of the generator would not interfere with the ability to access electrical transformers and also that the owner has no objection to the installation. Atty. Galacio said there are two letters from the owner addressing those issues. Mr. Clerico also recommended that the selection of trees to replace the tree being removed be subject to approval of Planner Carl Hintz. Atty. Galacio said applicant had no objection. Mr. Ford said the motion should include those items.

Mr. Hirt made a motion to approve the application, including above recommendations. Mr. Nace seconded the motion.

Vote: Ayes: Mr. Hirt, Mr. Nace, Mr. Walchuk, Mrs. Corcoran, Mr. Badenhause, Mrs. Dziubek, Mr. Ford

Mr. Ford announced a brief recess.

Correspondence: Perryville Group LLC: Block 22, Lot 4, Frontage Road: Atty. George Dilts, representing applicant, had submitted a letter to the Board dated July 27, 2012. The 16.6 acre property is a flag lot. Approval had been granted in 2008 for a 46,500 square foot flex building on the front portion of the property. Because of the economy that is no longer a viable use. Atty. Dilts also said the zoning has changed from Light Industrial to Village Commercial. Perryville Group has a party interested in the - remaining 7.7acre portion of the property to have a small office in an existing building. The interested party is in the waste disposal business and pumps out waste for residences and commercial businesses. Atty. Dilts indicated that the Zoning Official and Planner both told him they understand the zone would allow a smaller contractor; however, Atty. Dilts reported that the Planner told him that the proposal was too intense for Village Commercial. Atty. Dilts also stated that Planner Hintz told him that there may be a need in the Township to review the Village Commercial zoning to open it up to something that might be more productive to property owners. David Hay, Principal Owner of Perryville Group, was considering the possibility of solar use on the front part of the property and a portion of the rear property as well.

Atty. Dilts wanted to know if the Board would consider the possibility of recommending rezoning and also, if the Master Plan Road is still part of the Master Plan. A single driveway would probably be the means of access. Since the property is a flag lot, applicant would probably be seeking a variance. Mr. Dilts said there is a gas line running through the property and steep slopes that were man made, since the site was a quarry. Mrs. Corcoran said she did not think more trucks in the Township were appealing, especially since the site is surrounded by residential and proposed residential uses. The proposal would be similar to Russell Reid, however, there would be fewer vehicles. The initial plan would be to have ten trucks. Six of those would be straight bodies and four would be tractor trailers. Mr. Hirt asked Atty. Dilts if there was a limitation on how close you could build to the pipeline area. Atty. Dilts had a sketch and indicated where building was not permitted. He said some buffering would be required. Mr. Hirt said he would be more comfortable if Board members would familiarize themselves with the property.

Atty. Dilts said Mr. Hintz indicated to him that there was too much Village Commercial in the Township and advised Mr. Dilts to approach the Township about the possibility of rezoning several properties in the VC District. Applicant would have the option to request a use variance. Mr. Ford asked if the approval for the flex building was still valid. Mr. Hay said it is still valid under the Permit Extension Act. Mrs. Corcoran asked if the site had a storm water drainage issue. Atty. Dilts said a storm water facility was proposed that would have contained water runoff from the road. Mrs. Dziubek said the Township may want to consider rezoning when they reexamine the Master Plan. She said applicant would probably want to request a variance since it could be awhile before the MP was reexamined. Mr. Hirt said he thought the Township would like to have ratables and rezoning of the VC District could be beneficial to the Township and property owners. Atty. Dilts understood there were escrow monies in the Perryville Group account and applicant would like to use those monies to pay Mr. Hintz. Applicant will provide a letter to CFO Grace Brennan authorizing the use of those funds.

Comments from the Public/Other Discussion: Jane Manzione, 72 Perryville Road, said she wants to install roof mounted solar panels on the back side of her house. The installation would violate the Ordinance since the panels would face the street and therefore, her zoning application was denied. Ms. Manzione's house is approximately six-hundred feet from Perryville Road. The property is a flag lot and is Farmland Preserved. Atty. Anderson offered an explanation as to why the application was denied and apprised Ms. Manzione of four choices. Mr. Anderson said Ms. Manzione could ask Mr. Graham whether he thought he had interpreted the Ordinance correctly. Mr. Anderson said Mr. Graham's decision may be correct because the solar panels would, in fact, face the street. The distance from the street is not set forth in the Ordinance. If Ms. Manzione feels Mr. Graham has interpreted the Ordinance incorrectly, the Board has the power to accept an appeal from Mr. Graham's decision. Ms. Manzione could also ask the Board for a variance. Atty. Anderson said the last choice would be to ask the Board to look at making a change to the Ordinance that would have to be approved by the Board and the Township Committee. Ms. Manzione thanked the Board for their input.

Motion to Adjourn: A motion to adjourn was made by Mrs. Dziubek. It was seconded by Mrs. Corcoran. (8:40 p.m.)

Vote: All Ayes, No Nays, Motion Carried

Grace A. Kocher, Secretary